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8  
9 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11  
12 In the Matter of the Accusation Against:

Case No. 2011-118

13 **ROBERT AIAN FARRELL**  
14 **aka ROBERT ALAN FARRELL**  
15 **1329 Camino Primrose**  
**Palm Springs, CA 92262**

**A C C U S A T I O N**

16 **Registered Nurse License No. 546029**

17 Respondent.

18  
19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
22 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department  
23 of Consumer Affairs.

24 2. On or about July 29, 1998, the Board of Registered Nursing issued Registered Nurse  
25 License Number 546029 to Robert Aian Farrell aka Robert Alan Farrell (Respondent). The  
26 Registered Nurse License was in full force and effect at all times relevant to the charges brought  
27 herein and will expire on August 31, 2010, unless renewed.

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## JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code (Code) provides that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

## STATUTORY PROVISIONS

6. Section 482 of the Code states:

"Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

"(a) Considering the denial of a license by the board under Section 480; or

"(b) Considering suspension or revocation of a license under Section 490.

"Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee."

7. Section 490 of the Code provides that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

8. Section 493 of the Code states:

"Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the

1 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,  
2 and the board may inquire into the circumstances surrounding the commission of the crime in  
3 order to fix the degree of discipline or to determine if the conviction is substantially related to the  
4 qualifications, functions, and duties of the licensee in question.

5 "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and  
6 'registration.'"

7 9. Section 2761 of the Code states:

8 "The board may take disciplinary action against a certified or licensed nurse or deny an  
9 application for a certificate or license for any of the following:

10 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

11 "....

12 "(f) Conviction of a felony or of any offense substantially related to the qualifications,  
13 functions, and duties of a registered nurse, in which event the record of the conviction shall be  
14 conclusive evidence thereof.

15 "...."

16 10. Section 2762 of the Code states:

17 "In addition to other acts constituting unprofessional conduct within the meaning of this  
18 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this  
19 chapter to do any of the following:

20 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed  
21 physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or  
22 administer to another, any controlled substance as defined in Division 10 (commencing with  
23 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as  
24 defined in Section 4022.

25 "(b) Use any controlled substance as defined in Division 10 (commencing with Section  
26 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in  
27 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to  
28

1 himself or herself, any other person, or the public or to the extent that such use impairs his or her  
2 ability to conduct with safety to the public the practice authorized by his or her license.

3 "(c) Be convicted of a criminal offense involving the prescription, consumption, or  
4 self-administration of any of the substances described in subdivisions (a) and (b) of this section,  
5 or the possession of, or falsification of a record pertaining to, the substances described in  
6 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence  
7 thereof.

8 "...."

9 11. Section 2765 of the Code states:

10 "A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a  
11 charge substantially related to the qualifications, functions and duties of a registered nurse is  
12 deemed to be a conviction within the meaning of this article. The board may order the license or  
13 certificate suspended or revoked, or may decline to issue a license or certificate, when the time  
14 for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an  
15 order granting probation is made suspending the imposition of sentence, irrespective of a  
16 subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person  
17 to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict  
18 of guilty, or dismissing the accusation, information or indictment."

## 19 REGULATIONS

20 12. California Code of Regulations, title 16, section 1444, states:

21 "A conviction or act shall be considered to be substantially related to the qualifications,  
22 functions or duties of a registered nurse if to a substantial degree it evidences the present or  
23 potential unfitness of a registered nurse to practice in a manner consistent with the public health,  
24 safety, or welfare. Such convictions or acts shall include but not be limited to the following:

25 "(a) Assaultive or abusive conduct including, but not limited to, those violations listed in  
26 subdivision (d) of Penal Code Section 11160.

27 "(b) Failure to comply with any mandatory reporting requirements.

28 "(c) Theft, dishonesty, fraud, or deceit.

"(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code."

13. California Code of Regulations, title 16, section 1445 states:

“ . . .

“(b) When considering the suspension or revocation of a license on the grounds that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his/her eligibility for a license will consider the following criteria:

“(1) Nature and severity of the act(s) or offense(s).

“(2) Total criminal record.

“(3) The time that has elapsed since commission of the act(s) or offense(s).

“(4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

“(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

“(6) Evidence, if any, of rehabilitation submitted by the licensee.”

## COST RECOVERY

14. Section 125.3 of the Code provides that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

## DRUGS

15. Methamphetamine is a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivision (d)(2), and is a dangerous drug pursuant to Business and Professions Code section 4022.

16. Gamma-Hydroxybutyric acid (GHB), also known as 4-hydroxybutanoic acid and sodium oxybate is a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivision (e)(6). It is also known as a “rave” drug, “club drug” and a “date rape” drug.

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**FIRST CAUSE FOR DISCIPLINE**

**(October 21, 2008, Conviction for Use of a Controlled Substance on July 10, 2008)**

17. Respondent is subject to disciplinary action under Code sections 490 and 2761, subdivision (f), on the grounds that he was convicted of a crime that is substantially related to his qualifications, functions and duties as a registered nurse. The circumstances are as follows:

a. On October 21, 2008, in a criminal case entitled *The People of the State of California v. Robert Alan Farrell*, Respondent was convicted on his plea of guilty to violation of Health and Safety Code section 11550, subdivision (a), being under the influence of a controlled substance.

b. The facts that led to his conviction are that on or about July 10, 2008, Respondent with two small dogs was screaming for help at an apartment/condo complex located at Escoba Drive and East Palm Canyon Drive in Palm Springs. Palm Spring Police officers were dispatched. Witnesses directed the police officers to the location of Respondent who was hiding behind a white Camero holding two small dogs in the parking lot of San Jacinto Village Apartments. Respondent identified himself to the officers and stated that there was a woman pointing a gun at him who was sitting in a gray car nearby. The officers checked the car and found nobody. Respondent insisted the woman with the gun was still there and demanded to know why the officers were letting her point a gun at him. Respondent was hallucinating, sweating, grinding his teeth, talking constantly and moving his hands, feet, head, arms and legs constantly. One of the officers recognized symptoms consistent with using a central nervous system stimulant and asked Respondent when the last time he had used Crystal, and Respondent replied four days ago, and that he was going to start a 12 step program for meth tomorrow. Respondent had run about a mile trying to get away from the people he thought were chasing him. Respondent told the officers that the people that were chasing him had destroyed his truck, so he had abandoned it. Another officer located Respondent's truck and reported that it was in good condition with all the doors open and there did not appear to be any recent damage to the truck. Respondent told one of the officers that he was a nurse and begged the officer not to arrest him for having meth in his system. Respondent was arrested and was cooperative for a blood draw that yielded results that amphetamines were detected greater than 100 ng/ml.

1 c. As a result of the conviction, Respondent was sentenced to formal probation for  
2 36 months, ordered to obey all laws, ordinances, and court orders, complete a Substance Abuse  
3 Program pursuant to Penal Code section 1210.1, enroll in a Substance Abuse Program, attend  
4 Narcotics Anonymous or alternative program as directed by the Probation Officer or the Court,  
5 not to associate with any unrelated person known to be possessor user trafficker of controlled  
6 substance nor unrelated person on probation or parole, not to possess, use, have in his control any  
7 controlled substance or drug related paraphernalia unless medically prescribed and to report use  
8 to his probation officer, submit to search at any time as requested by a probation officer or law  
9 enforcement, submit to chemical tests of blood, breath, urine and reasonable physical tests  
10 requested by a probation officer or law enforcement, pay the actual cost of court ordered drug  
11 testing through the Court, report to a probation officer immediately for initial instructions and  
12 follow all reasonable directives of the probation officer, report any law enforcement contacts to  
13 the probation officer within 48 hours, seek and maintain gainful employment or attend a full-time  
14 school or vocational program, reside at a residence approved by the probation officer and not  
15 move without his/her prior approval, not own, possess, have under his control, or immediate  
16 access to any firearm, deadly weapon, weapon related paraphernalia, or incendiary device,  
17 complete at his expense any counseling, rehabilitation treatment program deemed appropriate by  
18 his probation officer, and to authorize release of information relative to progress, pay for the costs  
19 of a substance abuse program (Level 2 - Outpatient Treatment), and pay other various fines and  
20 fees.

## 21 SECOND CAUSE FOR DISCIPLINE

22 (March 29, 2010, Conviction for Reckless Driving on December 11, 2008)

23 18. Respondent is subject to disciplinary action under Code sections 490 and 2761,  
24 subdivision (f), on the grounds that he was convicted of a crime that is substantially related to his  
25 qualifications, functions and duties as a registered nurse. The circumstances are as follows:

26 a. On March 29, 2010, in a criminal case entitled *The People of the State of California*  
27 *v. Robert Alan Farrell*, Riverside Superior Court Case No. INM194942, Respondent was charged  
28 with violating Vehicle Code section 23152, subdivision (a), driving under the combined influence

1 of alcohol and a drug, and Health and Safety Code section 11550, subdivision (a), under the  
2 influence of a controlled substance. As a result of a plea bargain the complaint was amended to  
3 add a violation of Vehicle Code section 23103, subdivision (a), reckless driving. Respondent was  
4 convicted by his plea of guilty to violation of Vehicle Code section 23103, subdivision (a),  
5 reckless driving, and the other charges were dismissed.

6 b. The facts that led to the conviction are that December 11, 2008, Respondent was  
7 driving on South Camino Real at North Riverside Drive in Palm Springs, when Respondent  
8 dropped off his passenger, Doe, as he was vomiting from possibly taking GHB (Gamma Hydroxy  
9 Butyrate). Two Palm Springs Police Department Officers were dispatched to this location and  
10 spoke to a witness who stated he lived in the area and while he was walking saw a green car that  
11 resembled a Toyota Camry pull up to the corner of North Riverside and Camino Real, he heard a  
12 door slam and a man scream. He saw the car pull away and saw a man laying face down,  
13 bleeding on the ground where the car had been. The witness believed that the driver must have  
14 thrown the man out of the car. The witness walked over to Doe and phoned 911. The same car  
15 came back to the witness and Doe, and Respondent, who was the driver, got out of the car and  
16 told the witness that Doe took GHB. As Respondent was talking to the officers who responded to  
17 the scene, the officers noted that Respondent appeared to be under the influence of some type of  
18 drug. Respondent's speech was slurred, he did not stop talking and moved and flexed his lower  
19 jaw in a strange way. The officer checked inside of Respondent's mouth but did not see anything,  
20 but noticed that Respondent had a very dry mouth and his tongue was coated with a white film.  
21 Respondent did not smell of alcohol. The officers had Respondent perform field sobriety tests,  
22 which he failed. Respondent told the officer that he was driving the car and may have taken  
23 GHB. Respondent told officers that he was driving his passenger, Doe, to a fast food place when  
24 Doe became sick while in Respondent's car and started to throw up. Respondent stopped the car  
25 to allow Doe to throw up and Doe fell down outside Respondent's car and passed out.  
26 Respondent was arrested for driving under the influence of drugs.

27 c. As a result of the conviction, Respondent was sentenced to summary probation for  
28 24 months, committed to the custody of the Riverside County Sheriff for 1 day, ordered to obey



1 all laws, ordinances, and court orders, pay various fines and fees, and not to drive unless properly  
2 licensed, nor without insurance or valid registration.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct – Self-Administering of Controlled Substances)**

5 19. Respondent is subject to disciplinary action under Code section 2762, subdivision (a)  
6 for unprofessional conduct in that Respondent self-administered methamphetamine and GHB,  
7 controlled substances, as set forth in paragraphs 17 and 18, above, which are incorporated here by  
8 this reference.

9 **FOURTH CAUSE FOR DISCIPLINE**

10 **(Unprofessional Conduct – Use of Controlled Substances in a Dangerous Manner)**

11 20. Respondent is subject to disciplinary action under Code section 2762, subdivision (b)  
12 for unprofessional conduct in that Respondent used controlled substances in a manner dangerous  
13 to himself and the public by using illegal controlled substances and driving, as set forth in  
14 paragraphs 17 and 18, above, which are incorporated here by this reference.

15 **PRAYER**

16 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
17 and that following the hearing, the Board of Registered Nursing issue a decision:

18 1. Revoking or suspending Registered Nurse License Number 546029, issued to  
19 Robert Aian Farrell aka Robert Alan Farrell;

20 2. Ordering Robert Aian Farrell aka Robert Alan Farrell to pay the Board of Registered  
21 Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to  
22 Business and Professions Code section 125.3;

23 3. Taking such other and further action as deemed necessary and proper.

24 DATED: 8/16/10

*for* *Janice Bern*  
LOUISE R. BAILEY, M.ED., RN  
Interim Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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